

## CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: \_\_\_\_\_

Meeting Type: Regular

Meeting Date: Jul 9, 2015

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Amended and Restated Certificate of Reincorporation for the Huntsville Health Care Authority.

Exact Wording for the Agenda:

Resolution authorizing the Health Care Authority of the City of Huntsville to file an Amended and Restated Certificate of Reincorporation.

**Note: If amendment, Please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: \_\_\_\_\_

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: Jul 2, 2015

RESOLUTION NO. 15-\_\_\_\_\_

BE IT RESOLVED by the City Council (herein called "the Council") of the CITY OF HUNTSVILLE, ALABAMA (herein called "the City"), as follows:

Section 1. Findings. The Council has ascertained and hereby finds and determines as follows: that the Board of Directors of The Health Care Authority of the City of Huntsville (herein called "the Authority") has filed with the Council an Application containing a certified copy of a Resolution adopted by said Board of Directors on June 30, 2015, respecting the amendment and restatement of the Certificate of Reincorporation of the Authority, under the provisions of Ala. Code §22-21-310, et seq. That the Authority resolution is as follows:

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Health Care Authority Resolution

RESOLUTION  
TO AMEND AND RESTATE THE  
CERTIFICATE OF REINCORPORATION OF  
THE HEALTH CARE AUTHORITY  
OF THE CITY OF HUNTSVILLE

June 30, 2015

WHEREAS, The Health Care Authority of the City of Huntsville (the "Authority") was reincorporated in 1986 pursuant to the Alabama Health Care Authorities Act of 1982, Ala. Code §22-21-310, et seq., (the "Authorities Act"); and

WHEREAS, the Authority amended the Certificate of Reincorporation in 1987 and 1993; and

WHEREAS, the Authority desires to further amend, clarify and restate the Certificate of Reincorporation;

NOW, THEREFORE, BE IT RESOLVED, the Board hereby approves the Amended and Restated Certificate of Reincorporation as follows:

AMENDED & RESTATED  
CERTIFICATE OF REINCORPORATION

I.

The name of the corporation is THE HEALTH CARE AUTHORITY OF THE CITY OF HUNTSVILLE.

II.

The duration of the existence of the corporation shall be perpetual, unless it shall be sooner dissolved by proceedings taken pursuant to said Authorities Act.

III.

The name of the municipality, the governing body of which authorized the incorporation of said The Health Care Authority of the City of Huntsville and the reincorporation thereof is the City of Huntsville, Alabama (herein called "the City").

IV.

The principal office of the corporation shall be located at 101 Sivley Road, Huntsville, Alabama 35801.

V.

The corporation is organized pursuant to the provisions of, and for the purposes set forth in the Authorities Act and shall have all powers and authorities specified therein and in any amendment thereof, and all other powers and authorities heretofore or hereafter conferred, by the laws of Alabama not in conflict with the said Authorities Act (a) upon corporations organized or reincorporated under said Authorities Act, and (b) upon corporations generally; provided however, that notwithstanding the contrary provisions of said Authorities Act, all regular meetings of the board of directors of the corporation shall be subject to the provisions of Ala. Code §36-25A-1, et seq., to the same extent as if the corporation had not been reincorporated under said Authorities Act.

VI.

Without in any way limiting the generality of the foregoing, it is hereby expressly stated that the corporation shall have the same power of eminent domain as is vested by law in the City, to be exercised in the same manner and under the same conditions as are provided by law for the exercise of the power of eminent domain by the City, subject, however, to the provisions of Ala. Code §22-21-319.

VII.

Board Appointments

The composition of the Board of Directors shall increase from nine (9) members to not more than eleven (11) members appointed in the following manner:

A. Directors Appointed by City.

(1) Subject to succeeding provisions of this Section (7), nine (9) directors shall hereafter be elected by the

governing body of the City. The term of office of each director appointed by the City shall be six (6) years from the date of expiration of the immediately preceding term; provided, that, in accordance with applicable provisions of the aforesaid Authorities Act, (a) any director whose term of office shall have expired prior to the election of a successor thereto shall continue to hold office until his successor shall be so elected, and (b) any director elected to fill a vacancy on the Board of Directors of the Authority (resulting from the death or resignation of a director or cause other than the expiration of the stated term of a director) shall be elected to serve for the unexpired term applicable to such vacancy. The date of the ending of the terms shall be modified and restated as shown in 7(A)(4) below.

(2) Each place or seat on the Board of Directors of the Authority shall be assigned a place or seat number. No person shall be elected a director of the Authority if as a result of such election more than two of the directors then in office and appointed by the governing body of the City are licensed physicians or osteopaths. The Authority may appoint a physician to the Board of Directors as set forth in Article VII(B). No director shall hold an elective office of any state, county or municipality.

(3) The Board of Directors of the Authority shall, not more than ninety (90) nor less than ten (10) days prior to the expiration of the term of office of each director [or, in the case of a vacancy resulting from the death or resignation of such director or from a cause other than the expiration of the stated term of office of such director, within thirty (30) days following the occurrence of such vacancy], submit to the governing body of the City, in writing, a list (1) specifying the place or seat number of the director whose term of office is to expire or as to which a vacancy otherwise exists, and (2) setting forth the names of those persons proposed by resolution duly adopted by the Board of Directors of the Authority as nominees for such place or seat; provided, that the Board of Directors shall in such resolution propose the names of not less than three persons; and provided further, that no person's name shall be so proposed by the Board of Directors if (i) the election of such person by the governing body of the City would contravene any provision of this Certificate of Reincorporation or of law applicable to the Authority, or (ii) such person is otherwise not qualified hereunder or under applicable provisions of law to occupy the place or seat in question. The governing body of the City shall elect a person to occupy the place or seat in question only from the list of persons whose names were so submitted to it by the Board of Directors.

(4) The nine persons currently serving as directors of the Authority shall continue to serve as directors of the Authority for the respective terms and in the respective places as modified as hereafter specified, viz.:

<u>Name of Director</u>	<u>Date of Ending of Term</u>	<u>Place Number</u>
Bhavani Kakani	April 15, 2017	1
David Smith	April 15, 2017	2
Philip W. Bentley, Jr.	August 15, 2017	3
Frank Caprio	April 15, 2019	4
Beth Martin	April 15, 2019	5
Mike Goodman	April 15, 2021	6
Jean Templeton	August 15, 2015	7
Macon Phillips, M.D.	August 15, 2019	8
Amit Arora, M.D.	April 15, 2021	9

(5) If any of the aforesaid nine persons, or any successor thereto, shall die, resign, become incapable of acting (or disqualified to act) as a director of the Authority or otherwise vacate his office as such prior to the date of ending of the applicable current term shown above, a successor to serve for the expired term shall be elected by the governing body of the City, in accordance with the Authorities Act and subject to the preceding provisions of this Section (7).

B. Directors Appointed by the Authority.

(1) The Board of Directors of the Authority shall appoint up to two (2) members to the Board of Directors. The Board of Directors shall determine the terms of the appointment at the time of the appointment. The term of office may vary but will not exceed six (6) year terms. One of the appointees may be a physician. Any director may be reappointed by the Authority.

(2) The Authority will notify the City of the names and terms of members appointed to the Board of Directors by the Authority.

(3) The Authority shall have the power to remove any member appointed by the Authority.

VIII.

Upon any dissolution of the corporation, title to all its assets and property shall, subject to any constitutional provision or inhibition to the contrary, thereupon vest in the City.

IX.

*The corporation shall be a public, non-profit corporation, and no part of the net earnings thereof shall inure to any individual or private corporation.*

BE IT FURTHER RESOLVED, that the Chair and Secretary of the Authority are hereby authorized and directed (a) to file with the City Council a copy of this Resolution, duly certified and (b) upon the adoption by the City Council of the resolution contemplated and described herein, to sign, acknowledge and cause to be filed for record the said Amended and Restated Certificate of Reincorporation, all in accordance with the Authorities Act.

RESOLVED this 30<sup>th</sup> day of June, 2015.

\_\_\_\_\_  
Secretary of the Board of  
Directors  
The Health Care Authority of  
the City of Huntsville

[End of Resolution]

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Section 2. Approval. The Council has reviewed the Authority's Resolution and finds that it is regular in all respects and complies with all requirements of the laws of Alabama under which the Authority is incorporated; and that it is wise, expedient and necessary that the Authority be permitted to amend and restate the Certificate of Reincorporation.

Section 3. Authorization for Filing Amendment and Restatement of Certificate of Reincorporation. The form of Amended and Restated Certificate of Reincorporation attached to the Authority's aforesaid Resolution and set forth above is hereby approved by the Council. Permission is hereby granted to the Authority to file the Amended and Restated Certificate of Reincorporation and the Chair and Secretary of the Authority shall be and hereby are authorized to proceed to sign and acknowledge the Amended and Restated Certificate of Reincorporation, and to cause such Amended and Restated Certificate of Reincorporation to be filed for record, all in the manner provided by the Health Care Authorities Act, Ala. Code §22-21-310, et seq.

ADOPTED this the 9th day of July, 2015.

\_\_\_\_\_  
President of the City Council of  
The City of Huntsville, Alabama

APPROVED this the 9th day of July, 2015.

\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama

I, \_\_\_\_\_, as City Clerk of the City of Huntsville, Alabama, hereby certify that this and the \_\_\_\_ preceding pages constitute a true, correct and complete copy of Resolution No. \_\_\_\_\_, duly adopted by the City Council of said City at a meeting thereof held on \_\_\_\_\_, 2015, as the same appears in the records of said City, and that said resolution has not been amended, altered or repealed and is still in full force and effect.

WITNESS my signature, as said City Clerk, under the seal of said City, this \_\_\_\_ day of \_\_\_\_\_, 2015.


\_\_\_\_\_  
City Clerk of the  
CITY OF HUNTSVILLE, ALABAMA

[SEAL]

**APPLICATION TO**  
**THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, ALABAMA**  
**TO AMEND AND RESTATE THE**  
**CERTIFICATE OF REINCORPORATION OF**  
**THE HEALTH CARE AUTHORITY**  
**OF THE CITY OF HUNTSVILLE**

Application is hereby made by The Health Care Authority of the City of Huntsville (the "Authority") to the City Council of the City of Huntsville, Alabama (the "City Council") that the certified resolution of the Authority attached hereto as Exhibit A requests the City Council to approve and authorize the amendment and restatement of the Certificate of Reincorporation of the Authority. The Authority submits to the City Council a draft resolution and requests the resolution be adopted by the City Council authorizing: (1) the Authority be permitted to amend and restate its Certificate of Reincorporation; (2) the Amended and Restated Certificate of Reincorporation be approved; and (3) the Chair and Secretary of the Authority be authorized to sign, acknowledge and cause to be filed for record the Amended and Restated Certificate of Reincorporation. A copy of the draft City Resolution approving and authorizing the Authority to file the Amended and Restated Certificate of Reincorporation is attached hereto as Exhibit B.

Executed this 30<sup>th</sup> day of June, 2015.

  
\_\_\_\_\_  
Chair of the Board of Directors  
The Health Care Authority of the  
City of Huntsville



**EXHIBIT A**

**THE HEALTH CARE AUTHORITY OF THE CITY OF HUNTSVILLE  
RESOLUTION**

**RESOLUTION**  
**TO AMEND AND RESTATE THE**  
**CERTIFICATE OF REINCORPORATION OF**  
**THE HEALTH CARE AUTHORITY**  
**OF THE CITY OF HUNTSVILLE**

*June 30, 2015*

**WHEREAS, The Health Care Authority of the City of Huntsville (the “Authority”) was reincorporated in 1986 pursuant to the Alabama Health Care Authorities Act of 1982, Ala. Code §22-21-310, et seq., (the “Authorities Act”); and**

**WHEREAS, the Authority amended the Certificate of Reincorporation in 1987 and 1993; and**

**WHEREAS, the Authority desires to further amend, clarify and restate the Certificate of Reincorporation;**

**NOW, THEREFORE, BE IT RESOLVED, the Board hereby approves the Amended and Restated Certificate of Reincorporation as follows:**

**AMENDED & RESTATED**

**CERTIFICATE OF REINCORPORATION**

***I.***

***The name of the corporation is THE HEALTH CARE AUTHORITY OF THE CITY OF HUNTSVILLE.***

***II.***

***The duration of the existence of the corporation shall be perpetual, unless it shall be sooner dissolved by proceedings taken pursuant to said Authorities Act.***

### **III.**

*The name of the municipality, the governing body of which authorized the incorporation of said The Health Care Authority of the City of Huntsville and the reincorporation thereof is the City of Huntsville, Alabama (herein called "the City").*

### **IV.**

*The principal office of the corporation shall be located at 101 Sivley Road, Huntsville, Alabama 35801.*

### **V.**

*The corporation is organized pursuant to the provisions of, and for the purposes set forth in the Authorities Act and shall have all powers and authorities specified therein and in any amendment thereof, and all other powers and authorities heretofore or hereafter conferred, by the laws of Alabama not in conflict with the said Authorities Act (a) upon corporations organized or reincorporated under said Authorities Act, and (b) upon corporations generally; provided however, that notwithstanding the contrary provisions of said Authorities Act, all regular meetings of the board of directors of the corporation shall be subject to the provisions of Ala. Code §36-25A-1, et seq., to the same extent as if the corporation had not been reincorporated under said Authorities Act.*

### **VI.**

*Without in any way limiting the generality of the foregoing, it is hereby expressly stated that the corporation shall have the same power of eminent domain as is vested by law in the City, to be exercised in the same manner and under the same conditions as are provided by law for the exercise of the power of eminent domain by the City, subject, however, to the provisions of Ala. Code §22-21-319.*

### **VII.**

#### **Board Appointments**

*The composition of the Board of Directors shall increase from nine (9) members to not more than eleven (11) members appointed in the following manner:*

**A. Directors Appointed by City.**

**(1) Subject to succeeding provisions of this Section (7), nine (9) directors shall hereafter be elected by the governing body of the City. The term of office of each director appointed by the City shall be six (6) years from the date of expiration of the immediately preceding term; provided, that, in accordance with applicable provisions of the aforesaid Authorities Act, (a) any director whose term of office shall have expired prior to the election of a successor thereto shall continue to hold office until his successor shall be so elected, and (b) any director elected to fill a vacancy on the Board of Directors of the Authority (resulting from the death or resignation of a director or cause other than the expiration of the stated term of a director) shall be elected to serve for the unexpired term applicable to such vacancy. The date of the ending of the terms shall be modified and restated as shown in 7(A)(4) below.**

**(2) Each place or seat on the Board of Directors of the Authority shall be assigned a place or seat number. No person shall be elected a director of the Authority if as a result of such election more than two of the directors then in office and appointed by the governing body of the City are licensed physicians or osteopaths. The Authority may appoint a physician to the Board of Directors as set forth in Article VII(B). No director shall hold an elective office of any state, county or municipality.**

**(3) The Board of Directors of the Authority shall, not more than ninety (90) nor less than ten (10) days prior to the expiration of the term of office of each director [or, in the case of a vacancy resulting from the death or resignation of such director or from a cause other than the expiration of the stated term of office of such director, within thirty (30) days following the occurrence of such vacancy], submit to the governing body of the City, in writing, a list (1) specifying the place or seat number of the director whose term of office is to expire or as to which a vacancy otherwise exists, and (2) setting forth the names of those persons proposed by resolution duly adopted by the Board of Directors of the Authority as nominees for such place or seat; provided, that the Board of Directors shall in such resolution propose the names of not less than three persons; and provided further, that no person's name shall be so proposed by the Board of Directors if (i) the election of such person by the governing body of the City would contravene any provision of this Certificate of Reincorporation or of law applicable to the Authority, or (ii) such person is otherwise not qualified hereunder or under applicable provisions of law to occupy the place or seat in question. The governing body of the City shall elect a person to occupy the place or seat in question only from the list of persons whose names were so submitted to it by the Board of Directors.**

(4) *The nine persons currently serving as directors of the Authority shall continue to serve as directors of the Authority for the respective terms and in the respective places as modified as hereafter specified, viz.:*

<u><i>Name of Director</i></u>	<u><i>Date of Ending of Term</i></u>	<u><i>Place Number</i></u>
<i>Bhavani Kakani</i>	<i>April 15, 2017</i>	<i>1</i>
<i>David Smith</i>	<i>April 15, 2017</i>	<i>2</i>
<i>Philip W. Bentley, Jr.</i>	<i>August 15, 2017</i>	<i>3</i>
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<i>Mike Goodman</i>	<i>April 15, 2021</i>	<i>6</i>
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<i>Macon Phillips, M.D.</i>	<i>August 15, 2019</i>	<i>8</i>
<i>Amit Arora, M.D.</i>	<i>April 15, 2021</i>	<i>9</i>

(5) *If any of the aforesaid nine persons, or any successor thereto, shall die, resign, become incapable of acting (or disqualified to act) as a director of the Authority or otherwise vacate his office as such prior to the date of ending of the applicable current term shown above, a successor to serve for the expired term shall be elected by the governing body of the City, in accordance with the Authorities Act and subject to the preceding provisions of this Section (7).*

**B. Directors Appointed by the Authority.**

(1) *The Board of Directors of the Authority shall appoint up to two (2) members to the Board of Directors. The Board of Directors shall determine the terms of the appointment at the time of the appointment. The term of office may vary but will not exceed six (6) year terms. One of the appointees may be a physician. Any director may be reappointed by the Authority.*

(2) *The Authority will notify the City of the names and terms of members appointed to the Board of Directors by the Authority.*

(3) *The Authority shall have the power to remove any member appointed by the Authority.*

**VIII.**

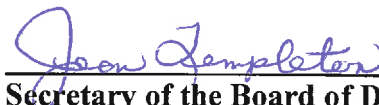
*Upon any dissolution of the corporation, title to all its assets and property shall, subject to any constitutional provision or inhibition to the contrary, thereupon vest in the City.*

**IX.**

*The corporation shall be a public, non-profit corporation, and no part of the net earnings thereof shall inure to any individual or private corporation.*

**BE IT FURTHER RESOLVED**, that the Chair and Secretary of the Authority are hereby authorized and directed (a) to file with the City Council a copy of this Resolution, duly certified and (b) upon the adoption by the City Council of the resolution contemplated and described herein, to sign, acknowledge and cause to be filed for record the said Amended and Restated Certificate of Reincorporation, all in accordance with the Authorities Act.

**RESOLVED** this 30<sup>th</sup> day of June, 2015.



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**Secretary of the Board of Directors  
The Health Care Authority of the  
City of Huntsville**

**EXHIBIT B**

**CITY OF HUNTSVILLE  
CITY COUNCIL RESOLUTION**

**RESOLUTION OF  
THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, ALABAMA  
FOR THE BENEFIT OF  
THE HEALTH CARE AUTHORITY  
OF THE CITY OF HUNTSVILLE  
RESOLUTION NO. \_\_\_\_\_**

**BE IT RESOLVED** by the City Council (herein called “the Council”) of the CITY OF HUNTSVILLE, ALABAMA (herein called “the City”), as follows:

**Section 1. Findings.** The Council has ascertained and hereby finds and determines as follows: that the Board of Directors of The Health Care Authority of the City of Huntsville (herein called “the Authority”) has filed with the Council an Application containing a certified copy of a Resolution adopted by said Board of Directors on June 30, 2015, respecting the amendment and restatement of the Certificate of Reincorporation of the Authority, under the provisions of Ala. Code §22-21-310, et seq. That the Authority resolution is as follows:

\*\*\*

**Health Care Authority Resolution**

**RESOLUTION  
TO AMEND AND RESTATE THE  
CERTIFICATE OF REINCORPORATION OF  
THE HEALTH CARE AUTHORITY  
OF THE CITY OF HUNTSVILLE**

*June 30, 2015*

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**WHEREAS**, the Authority amended the Certificate of Reincorporation in 1987 and 1993; and



WHEREAS, the Authority desires to further amend, clarify and restate the Certificate of Reincorporation;

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**AMENDED & RESTATED**

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**I.**

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(2) *The Authority will notify the City of the names and terms of members appointed to the Board of Directors by the Authority.*

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***VIII.***

*Upon any dissolution of the corporation, title to all its assets and property shall, subject to any constitutional provision or inhibition to the contrary, thereupon vest in the City.*

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RESOLVED this 30<sup>th</sup> day of June, 2015.

\_\_\_\_\_  
Secretary of the Board of  
Directors  
The Health Care Authority of the  
City of Huntsville

*[End of Resolution]*

\*\*\*

Section 2. Approval. The Council has reviewed the Authority's Resolution and finds that it is regular in all respects and complies with all requirements of the laws of Alabama under which the Authority is incorporated; and that it is wise, expedient and necessary that the Authority be permitted to amend and restate the Certificate of Reincorporation.

Section 3. Authorization for Filing Amendment and Restatement of Certificate of Reincorporation. The form of Amended and Restated Certificate of Reincorporation attached to the Authority's aforesaid Resolution and set forth above is hereby approved by the Council. Permission is hereby granted to the Authority to file the Amended and Restated Certificate of Reincorporation and the Chair and Secretary of the Authority shall be and hereby are authorized to proceed to sign and acknowledge the Amended and Restated Certificate of Reincorporation, and to cause such Amended and Restated Certificate of Reincorporation to be filed for record, all in the manner provided by the Health Care Authorities Act, Ala. Code §22-21-310, et seq.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Chair of the City Council  
CITY OF HUNTSVILLE, ALABAMA

Authenticated:

\_\_\_\_\_  
City Clerk

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor of the  
CITY OF HUNTSVILLE, ALABAMA

I, \_\_\_\_\_, as City Clerk of the City of Huntsville, Alabama, hereby certify that this and the \_\_\_\_ preceding pages constitute a true, correct and complete copy of Resolution No. \_\_\_\_\_, duly adopted by the City Council of said City at a meeting thereof held on \_\_\_\_\_, 2015, as the same appears in the records of said City, and that said resolution has not been amended, altered or repealed and is still in full force and effect.

WITNESS my signature, as said City Clerk, under the seal of said City, this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
City Clerk of the  
CITY OF HUNTSVILLE, ALABAMA

[SEAL]